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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,616	08/23/2001	Toshiya Mori	NAK1-BP80	9001
21611 7590 04/20/2007 SNELL & WILMER LLP (OC) 600 ANTON BOULEVARD SUITE 1400 COSTA MESA, CA 92626			EXAMINER LAMBRECHT, CHRISTOPHER M	
			ART UNIT 2623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/935,616		MORI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Christopher M. Lambrecht		2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 11, 2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed December 11, 2006 have been fully considered but they are not persuasive.

The new and amended claims fail to patentably distinguish over the prior art of record. Willard discloses a system employing repeated transmission of a first message during a transmission interval as claimed. Willard, figure 5 shows an auxiliary packet 58 transmitted with each transmission unit 54a-c into which an application module 51 is divided. Thus, transmitting module 51 once includes transmitting several auxiliary packets 58. Each of these packets generates an interrupt in the receiver CPU and provides information that enables the CPU to store the received module. (See, Willard, col.7 ll.60-65.) The auxiliary packet 58 is, therefore, repeatedly transmitted during the transmission interval of the associated module. Further, each of these packets prepares or designates

the receiver to store the associated module. Moreover, Willard discloses repeatedly transmitting modules themselves (col.6 ll.24-27). Accordingly, Willard discloses repeatedly transmitting first messages and scripts as claimed.

Delpuch discloses repeatedly transmitting a second message during a reproduction time period as claimed. Specifically, Delpuch teaches transmission of signal modules, which control the associated application during reproduction by, e.g., causing the receiver to suspend or resume execution of the application. (Delpuch, col.10 ll.38-64.) Moreover, Delpuch discloses repeatedly transmitting the signal modules to increase the probability of reception (col.11 ll.55-65). Accordingly, Delpuch discloses repeatedly transmitting a second message during a reproduction time as claimed.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,448,568 (Delpuch).

Regarding claim 16, Delpuch discloses a broadcast system for broadcasting television programs and associated interactive television program content (col.2 ll.23-32) the broadcast system comprising:

a program information holding unit for holding a main program (prerecorded AVI program) having a broadcast time interval (between video segment interfaces) and a data program having interactive program content for the main program (pre-packed signal modules) (col.11 ll.39-51);

a scheduling unit (program controller/editor) for scheduling a data program transmit time interval for transmitting the data program prior to the broadcast time interval (col.11 ll. 39-55); and

a transmission unit for repeatedly transmitting the data program in a data carousel format (col.10 ll.18-28) during the data program transmit time interval (col.11 ll.55-59) and broadcasting the main program during the broadcast time interval wherein the data program is transmitted before the main program is broadcast (reception prior to programmed event, col. 11 ll.7-11), allowing a receiver to store the data program for execution during the main program (col.11 ll.19-26).

As to claim 17, Delpuch discloses the broadcast system of claim 16 wherein the transmit unit transmits a control script that commands the receiver to execute (resume execution of) at least a portion of the main program (col.10 ll.53-64).

As to claim 18, Delpuch discloses the broadcast system of claim 16 wherein the transmit unit transmits a command that commands the receiver to save at least a portion (store current status) of the data program (col.10 ll.58-60).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11–15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,374,405 (Willard) in view of U.S. Patent No. 5,448,568 (Delpuch).

Regarding claim 11, Willard discloses a broadcasting apparatus (fig.1 item 10) that broadcasts broadcast programs (col.4 ll.18–35), each of which is to be reproduced by a receiving apparatus (fig.1 item 20) in a reproduction time period between a reproduction starting time and a reproduction finishing time (i.e., where each program is reproduced, col.8 ll.5–14, each is inherently reproduced between a reproduction starting time and finishing time), the broadcast apparatus comprising:

a scheduling unit (fig.3 item 34) operable to generate a schedule for transmitting the broadcast programs (col.5 l.55–col.6 l.16), the schedule including a transmission starting time and a transmission finishing time for each broadcast program (broadcast schedule for television programs, col.5 ll.2–8; transmission start times and delivery times for interactive applications, col.6 ll.34–42), and

wherein the scheduling unit generates the schedule so that (a) as for a specific program (fig.7a, MOD. 1) among the broadcast programs, a transmission starting time (*id.* S<sub>1</sub>) which is a predetermined amount of time (*id.* I<sub>1</sub>) before the reproduction starting time (*id.* D<sub>1</sub>) of the specific program and a transmission finishing time is set at the reproduction starting time of the specific program (col.9 ll.16–41, col.4 ll.50–60), and (b) as for a broadcast program other than the specified program (i.e., a television program), a transmission starting time is set at the reproduction starting time of the broadcast program and a transmission finishing time is set at the reproduction finishing time of the broadcast program (where television programs are processed and reproduced at receiving station as they are received, col.8 ll.5–15, transmission start and finish times correspond with reproduction start and finish times, respectively),

the predetermined amount of time in the schedule generated by the scheduling unit is a time period necessary for transmitting the specific program at least once (col.9 ll.36–42, col.2 ll.59–61),

the scheduling unit includes generation unit operable to generate first messages (fig.5 item 58) which designate the receiving apparatus to store the specific program (col.7 ll.57–65) in a storing unit (fig.6 item 67) within the receiving apparatus (col.9 ll.61–66); and

a transmission unit (fig.3 items 33, 34) operable to transmit each broadcast program only in the time period between the transmission starting time and the

transmission finishing time according to the schedule (col.6 ll.7–17); and to repeatedly transmit the first messages (i.e., transmit aux packet 58 for each of transmission units 54a-c of module 51; see fig.5) for a duration from the transmission starting time to the transmission finishing time of the specific program (col. 7, ll. 54-65), the transmission unit repeatedly (cyclically, col.8 ll.22-29) transmits contents including scripts (i.e., application code) for control for a duration from a broadcasting starting time of the specific program to a reproduction finishing time of the specific program (col.7 l.28–col.8 l.37), and the scripts for control perform control so that the specific program is stored in case of receiving the first message (col.7 ll.54–65).

Willard is silent with respect to the second message and performing control so that the specific program is reproduced in case of receiving the second message. However, in an analogous art, Delpuch discloses an apparatus and corresponding method for transmitting an interactive A/V program (abstract), the system comprising:

- a scheduling unit (fig.1 item 16) operable to generate the claimed second message, which designates the receiving apparatus to reproduce (e.g., resume) the specific program stored in the storing unit (col.3 l.63–col.4 l.4, col.5 ll.44–45);

- a transmission unit (fig.1 item 28) operable to repeatedly transmit the second message (col.11 ll.39-59) in the transmission time period of the specific program (col.11 ll.19–26), and

the scripts for control perform control so that the specific program is reproduced in case of receiving the second message (col.11 ll.27–38).

Delpuch further discloses that use of the second message alleviates situations resulting in undesirable displays produced by the interactive program (col.10 ll.29–52), and that repeatedly transmitting the second message enhances the probability of reception (col.11 ll.55-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Willard to include generating and repeatedly transmitting the second message and performing control so that the specific program is reproduced in case of receiving the second message, as taught by Delpuch, to improve presentation of interactive programs in the broadcasting system.

As to claim 12, Willard and Delpuch together disclose the apparatus of claim 11 wherein the generation unit is operable to generate a third message to delete a program stored in the storing unit (Delpuch, col.10 ll.53–64).

As to claims 13–15, see Willard and Delpuch as applied to claims 11 and 12, above. Willard further discloses a computer-readable medium storing therein a computer program that, when executed, causes a broadcasting apparatus to perform a method comprising steps corresponding to the functions performed by the disclosed broadcasting apparatus (Willard, col.6 ll.47–51).

Art Unit: 2623

**Conclusion**

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

**Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on Mon-Fri, 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher M. Lambrecht  
Examiner  
Art Unit 2623

cml



**JOHN MILLER**  
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